

CAPITAL PROJECTS ADVISORY REVIEW BOARD
1115 Washington Street Southeast
Office Building 2
Conference Room SL-03
Olympia, Washington
March 12, 2009
9:00 AM

Draft Minutes

MEMBERS PRESENT

REPRESENTING

MEMBERS ABSENT

Daniel Absher	General Contractors	Rep. Kathy Haigh (Vice Chair)	House (D)
Vince Campanella	General Contractors	Rep. Dan Kristiansen	House (R)
Damon Smith	Engineers	Senator Rodney Tom	Senate (D)
Norman Strong	Architects	Senator Dale Brandland	Senate (R)
Larry Stevens (for Rocky Sharp)	Specialty Contractors	Cynthia Cooper	OMWBE
Ed Kommers	Specialty Contractors	John Ahlers	Private Industry
David D. Johnson	Construction Trades Labor	Christopher Hirst	Private Industry
Mark Riker	Construction Trades Labor	Vacant	Public Hospital Districts
Olivia Yang	Higher Education	Dan Vaught	School Districts
John Lynch	GA		
Larry Byers	Insurance/Surety Industry		
Rodney Eng	Cities		
Robert Maruska	Ports		
Gary Rowe	Counties		

STAFF & GUESTS

Nancy Deakins, GA	Robyn Hofstad, GA
Searetha Kelly, GA	Dick Lutz, Centennial Construction
Cheri Lindgren, Puget Sound Meeting Services	Tom Balbo, AGC
Jeanne Rynne, OSPI	Jeff Beck, Insituform Technologies
Van Collins, AGC	Eric Smith, Chair, Project Review Committee
Mike Purdy, UW	

Welcome & Introductions

Chair Robert Maruska called the Capital Projects Advisory Review Board (CPARB) meeting to order at 9:07 a.m. Everyone present provided self-introductions. A meeting quorum was attained.

Approve Agenda

Membership of the Project Review Committee (PRC) was added to the agenda.

John Lynch moved, seconded by Norman Strong, to approve the agenda as amended. Motion carried.

Approve February 12, 2009 Meeting Minutes

Rodney Eng moved, seconded by Daniel Absher, to approve the February 12, 2009 minutes as presented. Motion carried.

Public Comments

There were no public comments.

Report from Project Review Committee

Eric Smith, Chair, Project Review Committee (PRC), reported the committee unanimously approved the City of Tacoma's certification applications for General Contractor/Construction Manager (GC/CM) and Design Build (DB) alternative public works (APW) methodologies. The certification requests were considered separately.

A panel was convened to review Mason County's Public Utility District (PUD) #3 project application for GC/CM for a warehouse and office complex project. The panel voted 4-2 to deny the request. The project failed to meet the criteria. Mason County PUD #3 submitted an appeal addressed to Bob Dixon at General Administration (GA). In addition to the appeal, Mason County PUD #3 reapplied for project application for GC/CM for the project, which is scheduled for the March 26, 2009 PRC meeting. The same panel will be convened to consider the reapplication. Mr. Smith said if the panel approves the request, there is no reason for the CPARB to consider the appeal. However, if the panel denies the application, the CPARB will consider the appeal at its April meeting.

In the appeal notice filed by Olympic Associates, it states the owner team demonstrated the GC/CM delivery provides a substantial fiscal benefit and that sufficient project representation was provided to the PRC. The appeal asserts PRC did not allow sufficient interview time for the team to answer all questions and that project representatives may not have understood relevant criteria.

Mr. Riker arrived.

Mr. Smith pointed out that there was disagreement among some panel members concerning what's required to meet criteria outlined in the statute. Since the inception of the committee, approximately half of the membership is relatively new to the committee. He described how the panels are selected to ensure a balance of private and public representation. All members might not be fully informed on APW deliveries and respective criteria. Providing orientation and education to new members on APW law would be beneficial.

Mr. Kommers commented that the Board has 45 days to respond to an appeal. The CPARB can respond to the appeal at the April meeting. In the meantime, the PRC can review the revised project application. He asked if a new panel will be convened to hear the request. Mr. Smith said typically, the same panel considers a resubmission. However, Olympic Associates has informally asked for a different panel. He indicated he elected not to seat a different panel, as those members are familiar with the request and the reasons for denial.

Discussion ensued on the basic disagreement among panel members, which was whether applicants must meet one or all five criteria outlined in the statute. Mr. Smith confirmed members have been provided with current statute language. It's also rare for any project to meet all five criteria.

Mr. Absher indicated it's reflective that the system is working. The CPARB must exercise caution and not prejudge an application based on the comments.

Chair Maruska pointed out that the Board will consider the appeal on the original application.

Mr. Eng suggested that if the second submittal is denied, the Board should convene a hearing on both appeals.

Ms. Deakins advised that staff will forward copies of the appeal letter to the Board with a link to the application for the April meeting. She provided a demonstration of the CPARB website and resources available online.

Membership of CPARB and PRC

Ms. Deakins reviewed vacancies on the Board and PRC. Staff is maintaining a list of interested candidates. William Kemble, representing construction trades labor, is interested in serving on the PRC. Mr. Johnson previously supplied a letter of recommendation. Members reviewed Mr. Kemble's experience.

Dave Johnson moved, seconded by Daniel Absher, to appoint William Kemble to the PRC.

Mr. Johnson commented that he has known Mr. Kemble for many years. Mr. Kemble understands the GC/CM delivery model. He is an excellent candidate for the position.

Motion carried unanimously.

Members discussed the status of filling the port and hospital district vacancies on the PRC and Board.

Review Status of Legislation

Ms. Deakins reviewed pending legislation and addressed comments:

- **House Bill (HB) 1195 and Companion Substitute Senate Bill (SSB) 5399 – Regarding payment of undisputed claims.** The bill passed the House and referred to the Senate Government Operations & Elections (GOE) Committee. SSB 5399 passed from the GOE Committee with a substitution, changing 30 days to 60 days based on a fiscal note submitted by King County. SSB 5399 is not endorsed by the CPARB. The bill has not moved to the Senate floor. A hearing for that bill and HB 1196 is scheduled for March 17, 2009 at 1:30 p.m.

Chair Maruska reported the CPARB endorsed and recommended HB 1995. A recommendation from the Board on SSB 5399 is a good idea. Ports did not object to the revised legislation.

Mr. Campanella, Mr. Eng, and Mr. Lynch said they support the 30-day threshold for several reasons:

- It's intended to keep the process moving.
- Language is from the GC/CM statute and there doesn't appear to be any problem with GC/CM projects.
- The bill was discussed thoroughly.
- The CPARB should support the 30-day version.
- A 60-day timeframe is counterproductive.

Ms. Yang spoke in favor of the 30-day limit and asked about the chances of the bill passing. The 30-day timeframe begins after work is performed.

Mr. Lynch advised that SSB 5399 must pass the House by 5:00 p.m. today.

Mr. Campanella said language changes at the task force level concerned dollars and other matters. There wasn't disagreement over the timing. The change provides a mechanism to improve the process flow and issue change orders to add work to a contract. The initial intent was eliminating contractors from funding public

works projects, as well as eliminating the owner's ability to delay and settle at the end of the project. He acknowledged the risk of the legislation not passing with a 30-day threshold. Mr. Absher agreed.

In response to a comment concerning the CPARB taking a position on the proposed legislation, Mr. Johnson indicated that the Board endorsed HB 1195.

Mr. Lynch volunteered to attend the hearing representing GA, as well as conveying the Board's discussion. Mr. Absher and Chair Maruska indicated they could attend the hearing. It was noted that HB 1195 and HB 1196 – increasing the dollar limit for small works roster projects as proposed by the CPARB, are on the same hearing schedule. Mr. Rowe advised that he'll contact King County prior to the hearing next week.

- **HB 1197 – Regarding alternative public works contracting procedures.**
- **HB 1198 (see Senate House Bill [SHB] 1847) – Changing public works bid limits.** SHB 1847 is not a CPARB bill. The qualifier was changed lowering the population of counties from 1 million and above to 400,000 resulting in the inclusion of four additional counties.

Chair Maruska said that the CPARB is not testifying on the bill.

Mr. Johnson said labor opposes the revised limits. The original bill was expanded significantly.

Ms. Deakins reported **Companion SB 5844** is the CPARB's proposal, but it may not make it out of the Senate.

- **HB 1199 – Regarding retainage of funds on public works projects.** The bill passed the House floor on March 11, 2009. **Companion SB 5396** may not move out of the Senate.
- **HB 1200 – Expanding the ability to negotiate an adjustment to a bid price on public works to municipalities.** This bill did not pass out of the State Government & Tribal Affairs (SGTA) Committee. **Companion SB 5398** did pass and will have to be voted on today to make it out of the Senate.

Ms. Deakins reviewed other legislation for CPARB to monitor:

- **HB 1641 and Companion SB 5527 – Regarding the University of Washington's public works contracting procedures.** The bills were not heard in the house and are dead.
- **HB 1690 – Authorizing APW contracting procedures.** The bill passed the House floor and was referred to the Senate GOE.
- **SSB 5760 and Companion SHB 1916 – Regarding the University of Washington's and Washington State University's public works contracting procedures.** SSB 5760 passed the Senate floor and was referred to the House SGTA.
- **HB 2151 and SSB 5944– Eliminating boards and commissions on June 30, 2010.** The substitute bill removed the CPARB from the elimination list. HB 2151 is dead in the House.
- **Engrossed Substitute Senate Bill (ESSB) 5873 – Regarding apprenticeship utilization.** The bill passed the Senate floor and referred to House Commerce & Labor.

- **HB 1837 and Companion SSB 5969 – Regarding listing subcontractors on public works projects.**
HB 1837 is dead. The Senate bill needs to be voted on today.

Members discussed HB 1836 concerning prevailing wages.

Task Force Status Reports

Design Build Definition for Modular – Ed Kommers

Mr. Kommers reported the task force developed draft language for action by the Board at a future date. Action is not required now because the proposal is not part of the package of amendments for the 2009 legislative session.

Fair Competition for WA Contractors – Dave Johnson

The task force met informally. The proposal as drafted by the task force will be introduced on the floor as a substitute.

Expand Subcontractor Bid Listing – Dave Johnson

Adjustments were incorporated in the substitution and bid shopping language resulting in a shorter version of the bill.

Discussion followed on the status of the housing authority issue. Mr. Kommers reported next steps are dependent on the Attorney General's legal opinion. Mr. Lynch indicated he'll follow up on when the Board might expect a legal opinion.

Mr. Absher reported the King County Housing Authority recently advertised for GC/CM services. Mr. Kommers said the housing authority is using GC/CM to attract a specific market rather than having an intent to apply the statute. Mr. Absher said the issue is confusing for the construction industry.

Integrated Project Delivery Approach Task Force

Mr. Kommers provided an overview of the Integrated Project Delivery (IPD) strategy. The approach provides some opportunities to serve the public, such as efficiencies between contractors and subcontractors when delivering a project. He proposed convening a task force to explore opportunities and challenges. The task force would ultimately provide the Board with a recommendation.

Mr. Strong distributed a handout. The American Institute of Architects (AIA), Associated General Contractors (AGC), Construction Users Roundtable (CURT), and a large owner's group are collaboratively reviewing the alternative. Industry representatives are evaluating business structures and practices currently used to optimize project results, reduce waste, and maximize efficiencies, which are beneficial for public projects. He reviewed a comparison between the traditional delivery method, Design Bid Build, and IPD in terms of teams, process, risk, compensation/reward, communications/technology, and agreements. The new delivery approach requires a collectively managed and appropriately shared risk. Compensation and reward are tied to project success. Agreements must encourage, foster, promote, and support open multi-lateral sharing and cooperation. There are however, legal and insurance issues to work out.

Ms. Yang added that the Board has an opportunity to shape a new procurement model.

Discussion ensued on models developing in the private sector primarily in the State of California for health care. Mr. Strong said he'll follow up with AIA to determine if other states are considering the IPD alternative.

Mr. Absher asked how an integrated team can help provide bonding for projects. Mr. Strong referred to an architect team located in Seattle that could provide some guidance. CURT is developing a white paper on the AGC and AIA documents.

Chair Maruska asked whether it's preferable to assemble a task force to explore IPD strategy and Best Value (BV), and follow up and monitoring of the Husky Stadium method. Members generally agreed to establish three separate task forces.

Board members and others volunteering to serve on the IPD task force, which will meet following the 2009 legislative session included Mr. Absher, Mr. Smith, Mr. Campanella, Mr. Lynch, Mr. Kommers, Mr. Maruska, Mr. Strong, Ms. Yang, Mr. Byers, and Mr. Dick Lutz.

Set Next Meeting Agenda

- DB definition for modular – CPARB action (2010 legislative proposal)
- Mason County PUD #3 GC/CM project application appeal
- An update on budget matters

Ms. Yang suggested not holding an April meeting if Mason County PUD #3 rescinds its appeal. The Board previously considered not scheduling a meeting in June. The Board should discuss its meeting schedule. Chair Maruska suggested the CPARB should evaluate priorities for the 2010 session at the May meeting. Mr. Absher concurred with Ms. Yang's proposal, as it's more cost effective to have a longer meeting every other month rather than shorter monthly meetings.

Members discussed the option of the Board meeting quarterly because of budget constraints.

Adjournment

Olivia Yang moved, seconded by Daniel Absher, to adjourn the meeting at 10:44 a.m. Motion carried.

Robert Maruska, CPARB Chair

Prepared by Cheri Lindgren, Recording Secretary
Puget Sound Meeting Services